IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

M.C.A. No. 240 OF 2006

Ram Soma Naik
V.
Rohidas Taru Rathod .

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.K.S.Narwade Advocate for the Petitioner.
Ms.F.N.Haidari Advocate for Respdt.

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CORAM: A.B. CHAUDHARI, J.
DATED : 16h OCTOBER, 2007.

Heard Mr.Narwade, learned counsel for the applicant and Ms.Haidari, learned counsel for respondent. Learned counsel for the parties are ad idem on the point that the statement made by the learned counsel for the petitioner in W.P.No.5355/05 that appeal was already preferred challenging the decree passed by the trial Court, was wrongly made for which in the present review application apology has been tendered by the learned counsel for petitioner. Acting on that

statement, this Court decided the aforesaid writ petition granting liberty to the petitioner to prosecute the appeal which, in fact, was not filed. Thus the order under review itself is based on a wrong statement which will have to be set aside. Therefore, the order dated 6.12.2005 is hereby set aside.

3. Writ petition is taken up for final hearing with the consent of parties.

4. Having heard the learned counsel for the rival parties on merits in W.P. No. 5355/05 it appears that the decree that was passed has become final and Ms.Haidari, learned counsel, states that even the amount of earnest amount that was received and which was ordered to be paid back to the petitioner has been paid. The respondent has also sold the suit property to some other person. It is also submitted that the respondent has already deposited near about Rs.40,000/- in the execution proceedings. In

the light of this development, it would be improper at this stage to interfere with the impugned order in this writ petition, since substantive litigation has come to an end. In view of this, I do not find that there is any good reason to interfere with the impugned order. Hence, this writ petition is dismissed. Petitioner to pay costs of Rs.1,000/- to the respondent within four weeks.

JUDGE

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